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FILED

5 1977

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By 105 Deb

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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF ALASKA

12 OMAR STRATMAN, TONI BURTON,
13 JOHN MURRAY, MICHAEL DEVERS,
14 JAMES SCHAUFF, and BRIAN SHAFFORD,

15 Plaintiffs,

16 vs.

17 THOMAS S. KLEPPE, Secretary of the
18 Interior, ANTON LARSEN, INC., BELLS
19 FLATS NATIVES, INC., LEISNOI, INC.,
20 and KONIAG, INC., REGIONAL NATIVE
21 CORPORATION,

22 Defendants.

No. A76-132 Civil

AMENDED
COMPLAINT

23 For cause of action, plaintiffs, by and through their
24 attorneys, HOUSTON & HENDERSON, complain and allege as follows:
25

26 I.

27 The defendant, Secretary of the Interior, (hereinafter
28 referred to as the Secretary) is required by the Alaska Native
29 Claims Settlement Act, 43 U.S.C.A. §1610 (b)(3) to find native
30 villages eligible to receive land conveyances provided that
31 twenty-five or more Alaska Natives were residents of an estab-
32 lished village on the 1970 census enumeration date.

II.

The alleged villages of Antol Larsen Bay, Bells Flats,
and Woody Island (Leisnoi) were not established villages on the

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1 1970 census enumeration date, nor did they at that time have
2 twenty-five or more Natives as residents. Notwithstanding
3 these facts, the defendant corporations of Anton Larsen, Inc.,
4 Bells Flats Natives, Inc., and Leisnoi, Inc., (hereafter referred
5 to as Village Corporations) were formed for the purpose, in
6 part, of receiving title to Federal lands pursuant to the Act on
7 behalf of Anton Larsen Bay, Bells Flats, and Woody Island
8 respectively.

9 III.

10 Despite the ineligibility of Anton Larsen Bay, Bells
11 Flats, and Woody Island by the statutory criteria to receive
12 Federal land under the statute, the Village Corporations have
13 made tentative selections from the public domain on Kodiak
14 Island, Woody Island and nearby areas, and have petitioned the
15 Secretary for patent to the lands selected.

16 IV.

17 Defendant KONIAG, INC., REGIONAL NATIVE CORPORATION
18 has or claims to have a mineral interest in all lands referred to
19 in paragraph III above in the event that patent as requested is
20 granted by the Secretary.

21 V.

22 Plaintiffs Omar Stratman and Toni Burton each own
23 grazing leases initially issued by the United States pursuant
24 to 45 U.S.C.A §471. All or a portion of the lands under said
25 leases were selected by the State of Alaska for patent to it
26 under the Alaska Statehood Act. By operation of State Statute,
27 grazing leases issued by the United States for lands which are
28 subsequently selected and patented to the state are subject to
29 renewal at the option of the lessee upon the lease expiration
30 date under identical terms and conditions. Such option to
31 renew constitutes a valuable property right in plaintiffs

1 Omar Stratman and Toni Burton.

2 VI.

3 All or portions of the lands under said grazing leases
4 which had been selected by the State of Alaska have now been
5 selected by the Village Corporations for patent to them. If
6 such patents are issued in violation of 43 U.S.C.A. §1610 (b)(3),
7 property rights of Omar Stratman and Toni Burton will be
8 terminated because the State of Alaska will not receive patent
9 to the subject lands which it has already selected. The
10 termination of these rights will constitute grave and irreparable
11 injury to the plaintiffs, and plaintiffs will each be damaged
12 in an amount exceeding \$10,000.00.

13 VII.

14 Plaintiffs Omar Stratman and Toni Burton each own
15 an interest in a slaughter-house facility situated upon land
16 which has been selected by defendant Leisnoi, Inc. for patent
17 to it. Prior to said selection by the Village Corporations,
18 the land in question had been selected by the State of Alaska
19 and tentatively approved by the Secretary for patent. The
20 state, after its selection, released its rights in said lands to
21 the Kodiak Island Borough which in turn gave a quit-claim to
22 the owners of the slaughter-house facility, including plaintiffs
23 Stratman and Burton. If patents are issued to the Village
24 Corporations in violation of 43 U.S.C.A. §1610 (b)(3), existing
25 property rights of plaintiffs Stratman and Burton will be
26 terminated, said termination causing grave and irreparable
27 injury to plaintiffs and damaging them in an amount exceeding
28 \$10,000.00.

29 VIII.

30 All individual plaintiffs presently make extensive use
31 of lands in the public domain on Kodiak Island and Woody Island

1 for recreation purposes including hunting, fishing, camping,
 2 hiking, picnicking, boating, berry picking, bird watching and
 3 nature observation and photography. The lands selected for
 4 patent to the Village Corporations of Anton Larsen, Inc. and
 5 Bells Flats Natives, Inc. are either used for said recreational
 6 purposes or must be used for access to such areas. Patent of
 7 these lands to the Village Corporations in violation of
 8 43 U.S.C.A. §1610 (b)(3) will terminate the plaintiff's rights
 9 of access and enjoyment of Federal lands in the public domain.
 10 Such termination of rights of access and enjoyment will
 11 constitute grave and irreparable injury to the plaintiffs, and
 12 plaintiffs will be damaged in an amount exceeding \$10,000.00.

IX.

14 Jurisdiction and venue in this Court are provided by
 15 28 U.S.C.A. §1331 and 28 U.S.C.A. §1391.

16 WHEREFORE: Plaintiffs pray as follows:

17 (1) That the Secretary be permanently enjoined from
 18 issuing any patents to or other interest in real property in
 19 the Federal domain to the Village Corporations.

20 (2) That any conveyances of any interest in real
 21 property which might have been made to said Village Corporations
 22 by the Secretary be declared null and void.

23 (3) That plaintiffs be awarded their costs and
 24 attorney's fees.

25 (4) Such other relief as the Court deems just.

26 DATED this 5th day of January, 1977.

27 HOUSTON & HENDERSON
 28 Attorneys for Plaintiffs

29 By Roger E. Henderson
 30 Roger E. Henderson
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